

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Our Ref: 1038-1086 MIS:sd

In re National Phase of International Application

No.: PCT/CA99/00287

International

Filing Date: April 7, 1999

Applicant: Charles D.Y. Sia et al.

Title: HIV-SPECIFIC CYTOTOXIC-CELL RESPONSE

May 4, 2001

The Commissioner of Patents  
and Trademarks,  
Washington, D.C. 20231,  
U. S. A.

DECLARATION UNDER 37 CFR 1.47 (a)

I, Michael I. Stewart, of 1180 Carey Road, Oakville, Ontario, L6J 2E4, declare as follows:

1. I am responsible for the preparation and filing of this application and have registration No. 24,973.
2. I receive my instructions with respect to this application from the Patents Department of Aventis Pasteur Limited (formerly Connaught Laboratories Limited).
3. This application was filed as a U.S. National Phase filing of PCT/CA99/00287 which claimed priority from U.S. Application No. 09/059,584. When the application was filed, I forwarded the Declaration and Power of Attorney to the Patents Department of Aventis Pasteur Limited, with a request that the document be signed by all inventors.
4. I received a letter dated February 6, 2001 from the Patents Department of Aventis Pasteur Limited enclosing a Declaration and Power of Attorney document executed by all inventors except Charles D.Y. Sia. A Declaration and Power of Attorney was executed by Charles D.Y. Sia in connection with the priority U.S. Application No. 09/059,584.

5. Charles D.Y. Sia terminated employment with Aventis Pasteur Limited on September 28, 2000. I am advised by Dr. Gavin Zealey of the Patents Department of Aventis Pasteur Limited that the Declaration and Power of Attorney executed by Charles D.Y. Sia was forwarded to him by Federal Express, to his last known address, namely 133 Torresdale Avenue, Suite 901, Toronto, Ontario, M2R 3T2, Canada, with a request for execution and return. This shipment was made on November 28, 2000 under Tracking Number 474490283850 and was delivered on December 6, 2000 at 15.53, where it was signed for by Charles D.Y. Sia. A follow up telephone call on January 25, 2001 concerning the status of the documentation was answered by an answering machine and a message was left.

6. To date, Charles D.Y. Sia has not contacted the Patents Department of Aventis Pasteur Limited and the executed Declaration and Power of Attorney has not been returned by Charles D.Y. Sia and hence the filing of the Petition under 37 CFR 1.47(a) that this Declaration supports.

7. The invention which is the subject of this application was made during the period of time that Charles D.Y. Sia was employed by Aventis Pasteur Limited. There terms of his employment oblige Charles D.Y. Sia, according to paragraph 2 of his Confidentiality Agreement dated November 15, 1998, attached hereto as Exhibit I, to execute all papers in connection with any invention made during the course of his employment. As noted above, the Declaration and Power of Attorney in connection with the priority filing was executed by Charles D.Y. Sia as well as an assignment to Connaught Laboratories Limited.

8. In connection with the documentation for the Petition under 37 CFR 1.47(a), I am advised by Mr. Reza Yacoob of the Patent Department of Aventis Pasteur Limited that a Declaration and Power of Attorney was forward by facsimile transmission on March 27, 2001 to inventor Pete Chong for execution on behalf of the inventor, Charles D. Y. Sia, to his last know address, namely c/o Venture Biomedical, 25 Davids Drive, Hauppauge, New York 11788, U.S.A. I am advised by Reza Yacoob that Pete Chong called Reza Yacoob shortly thereafter acknowledging receipt and advising that he would not sign the paper on behalf of Charles D. Y. Sia, despite having already signed a Declaration for

this case. I am advised by Reza Yacoob that Dr. Gavin Zealey subsequently contacted Pete Chong by telephone concerning his signing the Declaration and was again advised by Pete Chong that he would not sign the paper. Accordingly, the paper was signed by the remaining inventor, Michael Klein, on behalf of both Charles D. Y. Sia and on behalf of Pete Chong.

9. The invention which is the subject of the application was made during the period of time that Pete Chong was employed by Aventis Pasteur Limited. The term of this employment oblige Pete Chong, according to paragrah two of his Confidentiality Agreement dated May 2, 1985, attached hereto as Exhibit II, to execute all papers in connection with any invention made during the course of his employment. Pete Chong terminated employment with Aventis Pasteur Limited on June 9, 2000. As noted above, Pete Chong executed a Declaration and Power of Attorney for this application.

10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Declared at Toronto, Ontario, this 4<sup>th</sup> day of May, 2001.

  
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Michael I. Stewart

# CONNAUGHT

LABORATORIES LIMITED

1755 Steeles Avenue West, Willowdale, M2R 3T4, Ontario Canada

## CONFIDENTIALITY AGREEMENT

TO: CONNAUGHT LABORATORIES LIMITED

IN CONSIDERATION OF the continued employment of the undersigned by Connaught Laboratories Limited ("Connaught") and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the undersigned), the undersigned hereby covenants and agrees with Connaught as follows:

1. The undersigned will not, either during the continuance of his employment by Connaught or any time thereafter, disclose or authorize anyone to disclose any confidential information or trade secrets concerning the business or businesses of Connaught to any person nor use or authorize to use the same for any purposes other than those of Connaught nor remove or authorize anyone to remove from Connaught's premises any books, manuals, records, documents or working papers (or copies thereof or extracts therefrom) or samples of any biological or pharmaceutical products except, in any case, as may be specifically approved by Connaught or be specifically required in the course of his employment by Connaught.

2. The undersigned agrees that all discoveries, methods, products, improvements or formulae with which the undersigned may be involved in any manner during the term of his employment by Connaught and in any way relating to the business or businesses of Connaught are the sole, exclusive and absolute property of Connaught and the undersigned will forthwith upon becoming so involved with any

such discovery, method, product, improvement or formula, fully and freely disclose the same to Connaught and shall, when so requested by Connaught, execute all documentation as may be required by Connaught to fully and effectively vest in Connaught the property rights in any such discovery, method, product, improvement or formula. The undersigned hereby acknowledges and agrees that any such discovery, method, product, improvement or formula shall constitute confidential information or trade secrets relating to the business or businesses of Connaught and shall be subject to the provisions of paragraph 1 hereof.

3. Any provision of either paragraph 1 or 2 hereof which is determined to be void and unenforceable shall be severable from all other provisions thereof and shall not be deemed to affect or impair the validity of any such other provisions.

4. The undersigned hereby agrees that all covenants contained herein are reasonable and valid and waives all defences to the strict enforcement thereof by Connaught.

5. The undersigned acknowledges that a violation of any of the provisions of these presents will result in immediate and irreparable damage to Connaught and agrees that in event of such violation Connaught shall, in addition to any other right or relief, be entitled to equitable relief by way of temporary or permanent injunction and to such other relief that any court of competent jurisdiction may deem just and proper.

6. The provisions hereof, where the context so permits, shall enure to the benefit of the successors and assigns of Connaught and shall be binding upon the heirs, legal personal representatives and assigns of the undersigned.

7. The undersigned hereby acknowledges that he has read the foregoing and understands the implications thereof and acknowledges receipt of a duly executed copy of these presents.

IN WITNESS WHEREOF these presents have been executed by the under-signed this 2<sup>nd</sup> day of May , 1985.

SIGNED, SEALED & DELIVERED  
in the presence of

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Ray Kuan  
Steve Waller  
Shirley Gillam  
Pete Cheng